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Israeli Supreme Court Confirms a Strict Standard for Remote Testimony in Civil Proceedings

Uncategorized

A recent decision of the Israeli Supreme Court^[1] confirms a strict standard for remote (virtual) testimony in Israeli civil court proceedings under the Civil Procedure Regulations, 2018 ("**Regulations**").

Although technological developments and globalization have made testimony by video conference an attractive option in litigation and arbitration, the Court clarified that in Israeli civil proceedings, remote testimony remains the exception rather than the rule. This decision may be of particular interest to foreign parties, experts, and other witnesses outside Israel who may be involved in Israeli court proceedings and wish, or may be required, to give evidence before Israeli courts.

Regulation 72(a) of the Regulations gives the court discretion to allow testimony by video conference, whether from within or outside Israel, provided three cumulative conditions are satisfied: first, appearing in court would cause the witness substantial difficulty, and the witness consents to testify remotely; second, the witness's testimony is essential to the issues in dispute; and third, there is no impediment under the law of the foreign state to hearing the testimony remotely from its territory.^[2] In addition to this, the application must be submitted in good faith and without delay.^[3]

This ruling is significant because it expressly explains that the 'essential' testimony requirement introduced in the 2018 Regulations is stricter than the previous standard of relevance. Under the previous framework, case law required that the testimony **be relevant** to the issues in dispute, whereas Regulation 72(a)(2) requires that it **be essential** to the issues in dispute. The requirement of essentiality reflects a deliberate effort to preserve the ordinary rule that testimony should be given in person. Therefore, where the testimony is not essential (even if relevant), the party seeking to rely on it may be required either to bring the witness to Israel or to proceed without that testimony.

In addition to the lack of essentiality, the case also illustrates that a claim of substantial difficulty under Regulation 72(a)(1) must be supported by specific evidence and raised promptly and in good faith. The applicant in the specific case relied on medical difficulties to argue that travelling from the United States to Israel would be very difficult, but she did not establish that difficulty to the required evidentiary standard. In particular, her medical documents did not address the fact that she had flown from Israel to the United States only a few weeks earlier or explain whether her condition had changed after that flight. In addition, she left Israel shortly before her scheduled testimony without notifying the court or the opposing party

that she would not return. The Court therefore upheld the finding that she had failed to establish substantial difficulty and that her application had been submitted with delay and not in good faith.

Therefore, while remote testimony remains available, based on the Regulations and recent case law, it is so only on the basis of a timely, well-supported application and only when the testimony is genuinely essential for the resolution of the dispute.

More broadly, the decision reflects the Israeli courts' emphasis on the evidentiary and procedural value of in-person testimony, even at a time when virtual hearings and virtual testimony are becoming increasingly common in legal systems around the world.

[1] LCA 5500-08-26 Anonymous v. Yitzhak Oren (Nevo, August 17, 2026).

[2] Regulation 72(a) of the Civil Procedure Regulations, 2018.

[3] Regulation 3(b) of the Civil Procedure Regulations, 2018.

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